STATE OF MICHIGAN

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Daniel Morrison, OT
Petitioner **File No. 21-1703**

v

Citizens Insurance Company of the Midwest
Respondent

Issued and entered
this 10th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 9, 2021, Daniel Morrison, OT (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of Citizens Insurance Company of the Midwest (Respondent) that the cost of treatment, products, services, or accommodations that the Petitioner rendered was inappropriate under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a bill. The Respondent issued the Petitioner a bill denial on October 25, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 18, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on November 18, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 3, 2021. The Department issued a notice of extension to both parties on January 3, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the appropriate reimbursement amount for occupational therapy treatments and related provider travel time rendered on September 1, 7, 15, and 29, 2021[1] under Current Procedural Terminology

[1] The Petitioner's appeal request initially had additional dates of service at issue of August 4, 11, and 18, 2021; however, those dates of service were withdrawn by the Petitioner on December 6, 2021.

(CPT) code 97535, and Healthcare Common Procedural Coding System (HCPCS) Level II code T2003. The procedure codes are described as self-care home management training (activities of daily living, direct one on one contact, each 15 minutes), and non-emergency transportation.

With its appeal request, the Petitioner's submitted documentation which included an *Explanation of Review* (EOB) letter issued by the Respondent and a narrative outlining its reason for appeal.

The Petitioner's request for an appeal stated:

> I am appealing the enclosed EOB/payment for the above-mentioned [injured person] for Occupational Therapy in their home. The charges were reduced stating "payment is a percentage of the person's charge master description in effect on January 1, 2019." Enclosed is documentation showing Medicare Physician Fee schedule for CPT code 97535 payable at $[redacted]/unit, which is $[redacted] less than charged amount of $[redacted]/unit. The payment made is a 57% reduction. As the Fee Schedule for [the Petitioner] shows, fees were at $[redacted]/unit in 2019, along with IRS rate for mileage and $[redacted] from travel time. This reduction is unreasonable to provide quality care to patients with brain injury obtained in [motor vehicle accident.]

In its denial, the Respondent stated that the payment is a "percentage of the person's chargemaster description [sic] in effect on January 1, 2019.". In its reply, the Respondent stated that it did not have the Petitioner's charge description master and that reimbursement "was priced according to the Fair Health database."[2]

On November 18, 2021, the Department requested that the Petitioner submit its January 1, 2019 charge master description (CDM). See MCL 500.3157(7). The Petitioner submitted its January 1, 2019 CDM to the Department on November 18, 2021.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding cost.

For dates of service after July 1, 2021, MCL 500.3157 governs the appropriate cost of treatment and training. Under that section, a provider may charge a reasonable amount, which must not exceed the amount the provider customarily charges for like treatment or training in cases that do not involve insurance. Further, a provider is not eligible for payment or reimbursement for more than specified amounts. For treatment or training

[2] In its reply to the Department, the Respondent stated that the treatments rendered were not medically necessary "per review of the additional medical documentation submitted" with this appeal. However, that position was raised for the first time in the reply: the Respondent's determination at issue in this appeal did not include this position and will not be considered in this review.

that has an amount payable to the person under Medicare, the specified amount is based on the amount payable to the person under Medicare. If Medicare does not provide an amount payable for a treatment or rehabilitative occupational training under MCL 500.3157(2) through (6), the provider is not eligible for payment or reimbursement of more than a specified percentage of the provider's charge description master in effect on January 1, 2019 or, if the provider did not have a charge description master on that date, an applicable percentage of the average amount the provider charged for the treatment on January 1, 2019. Reimbursement amounts under MCL 500.3157(2), (3), (5), or (6) may not exceed the average amount charged by the provider for the treatment or training on January 1, 2019. See MCL 500.3157(8); MAC R 500.203.

Based on its review, the Department determined that the CPT code at issue has an amount payable under Medicare. Accordingly, to calculate the appropriate reimbursement amount, the Department relied on information maintained by the American Academy of Professional Coders (AAPC) and the Centers for Medicare and Medicaid Services (CMS) Physician Fee Schedule for the service year and specific Medicare locality, which is March 2021 and Detroit 0820201. Pursuant to MCL 500.3157(2)(a), the amount payable under Medicare for the CPT code 97535 is $[redacted] for the dates of service at issue. However, under MCL 500.3157(8), the reimbursement amount cannot exceed the average amount charged by the Petitioner on January 1, 2019. Therefore, the reimbursement amount is $[redacted] per unit for procedure code 97535, based on the Petitioner's charge description master as of January 1, 2019.

HCPCS Level II code T2003 does not have an amount payable under Medicare. Accordingly, to calculate the appropriate reimbursement amount, the Department relied on the Petitioner's submitted CDM as of January 1, 2019 for HCPCS level II code T2003. Pursuant to MCL 500.3157(7), the amount payable for procedure code T2003 is $28.63 per unit.

CPT	Medicare allowed amount	200% of the Medicare allowed amount	4.11% CPI adjustment	Adjusted Medicare allowed amount	Amount payable based on charged amount for the dates of service at issue
97535	[redacted]/unit	[redacted]	[redacted]	[redacted]/unit	[redacted]/unit[3]
HCPCS code	**January 1, 2019 charge description master amount**	**55% of January 1, 2019 charge description master amount**	**4.11% CPI adjustment**	**Amount payable for the dates of service at issue**	
T2003	[redacted]	[redacted]	[redacted]	[redacted]	

[3] Pursuant to MCL 500.5137(8), the reimbursement amount cannot exceed the average amount charged by the Petitioner on January 1, 2019.

Accordingly, for the dates of service at issue, the Department concludes that the Petitioner is due additional reimbursement for procedure code 97535 but is not due additional reimbursement for procedure code T2003.

IV. ORDER

The Director reverses, in part, the Respondent's determination dated October 25, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for CPT code 97535 on the dates of service discussed herein, and to interest on any overdue payments as set forth in Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X Sarah Wohlford

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford